

April 20, 1998

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Office of the Secretary (1800)
Room 222
FCC
1919 M Street NW
Washington, DC 20554

Reference: RM 9247

Dear Commissioners:

As a retired member of the broadcast community, both as an announcer and engineer, I fully support and encourage the rapid adoption of an LPFM proposal for small communities and rural areas. I would like the following comments to be considered in support of an LPFM licensing structure.

LPFM would benefit hundreds of small communities and rural areas like ours, where there is insufficient commercial revenue available to justify or maintain the expense of a full size or full time "standard" AM or FM commercial station operation. Rural areas and small communities have a desperate need to have a real time means of disseminating information to their residents.

By way of illustration, the community in which my wife and I live is in a rural mountain area. It is an incorporated city with a population of about 1000 residents, with one hardware store, one grocery store and a U.S. post office. A small 2-page newsletter is prepared by one of our residents, but is only sent out once a month. This information, for all its good intent, is not always timely. We have no means of disseminating information to the residents in a timely manner. Because of our small size and rural location, we do not have the financial resources in the community to support a "standard" broadcast station with its high fees and operating costs. We could, however, support an LPFM operation, thus serving the needs of our community and surrounding rural area.

Currently the nearest station is a 5Kw AM in a neighboring town 10 miles away. They program Spanish only full time. Their goal is to reach the Hispanic population in another community 15 miles east of that station, and the Hispanic population between there and Portland, 60 miles away. According to the 1990 U.S. Census, our county, in which this station is centered, has a total population of 45,541 of which 2,802 are Hispanic. The result is that the 40,000 plus county residents who do not speak Spanish must listen to news and information about cities 30 to 70 miles away. Even if that format were changed, it would not be commercially viable for that station to address our local community needs. A local, LPFM structure would allow our community and hundreds of other small communities across the country a real time outlet that could disseminate local community and school news, information and activities. This would truly be "IN THE COMMUNITY and PUBLIC INTEREST."

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Some of the types of items we could cover in our community would be timely reminders of local meetings, and current school bus and weather conditions. School functions that were scheduled for that night could also be covered in the morning. Night school sports and live discussions on area events, issues and concerns could be programmed. These are things that only interest people who live in our area. Programs produced by our youth could help curb delinquency, instill self confidence and educate their peers about drugs and AIDS. A local LPFM station could be a source for the elderly in the area, who find it difficult to get out, to get current and timely information on events and services that may benefit them, and to know what's going on in the area. In the two short years my wife and I have lived in the community, fire has destroyed 5 homes, displacing the families. An LPFM station could have been used to find necessary resources to help the families at a time when they really needed it.

Currently, if a local school has an emergency notice to get out to the residents, there is NO local outlet. They must contact stations 30 to 40 miles away, or even 60 miles away, and hope that those stations will air, and our residents will hear, the message. It just does not happen! In the past year our city has had 3 occasions when water lines broke or the chlorinator failed, creating a health hazard. By the time a notice was typed up, mailed to and received by all the affected residents, 2 days had passed. An LPFM operation could have been utilized to communicate this information in a timely manner. This type of station with a low operating cost would not have to be dependent on everyone listening 24 hours a day and selling out the entire day to make operating costs.

Many stations 40 to 60 miles and more away have placed translators on channels which cover this area. It is my opinion that this is a gross waste of FM broadcast spectrum. These stations do not "serve" the communities the translators cover, and will not waste their time being involved in those communities' events. Their listeners do not want to hear a small town city council meeting or the girls' volleyball game live from some town out in the boondocks 40 or more miles away. In many cases they have never even heard of these outlying communities. I can listen to several stations on multiple frequencies via their main stations and their translators. This could be caused by the fact that there are 204 translators compared to 154 FM stations in Oregon, a possible misuse of precious FM spectrum and not necessarily in the public interest of the areas they cover. Those figures were obtained from the "on-line" FCC data base for Oregon. NONE of these stations carries information pertaining to the area the translators cover. Why not let the local communities have the chance to utilize these channels by placing low cost, LPFM facilities on the air for the benefit of their areas?

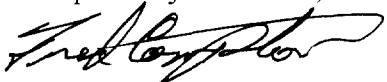
Opponents of an LPFM licensing structure may argue that they will lose revenue to these small operations. I submit that this would not be the case, as most of the areas that would utilize LPFM would be in locations where the corporate stations cannot sell now. In areas like ours the merchants cannot afford nor will they spend the money required by those stations for advertising that is received by people living 30 to 60 miles from their businesses. The listeners of those stations won't drive out here to shop, and the stores here cannot advertise on all the outlying stations, in hopes of getting their message to our local residents.

I have attached as Exhibit "A" a proposal submitted to you by the Community Radio Coalition (CRC). I have read the proposals set forth in RM 9242, RM 9208 and the one written by the CRC. RM 9242 and RM 9208 have their respective merits. However, I believe that the proposal set forth by the CRC is the most comprehensive and realistic of the proposals, both in addressing the real needs of small communities and in protecting the licensing structure from being misused. Please read and strongly consider it as the guide for adoption of an LPFM structure. LPFM is desperately needed by many small communities throughout the country and is long overdue.

I know that there are many retired broadcast professionals throughout the country who would be interested in and available for assisting LPFM operations. Their expertise would be a great resource for the LPFM service.

Should the Commission enact a low cost LPFM licensing structure, it will be a great day for the small communities, rural areas and the country as a whole. I for one will be one of the first to file for a license to serve our community and surrounding area and put "IN THE PUBLIC INTEREST" back into radio.

Respectfully submitted,



Fred Compton
P.O. Box 146
Falls City, OR 97344

Attachment

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of

Amendment of Section 73, Subpart B,
FM Broadcast Stations,

To authorize a Low Power FM Broadcast Service

To: The Commission

PETITION FOR RULE MAKING

The Community Radio Coalition ("the petitioner") hereby respectfully requests that the rules for FM Broadcast Stations, Section 73, Subpart B, be amended to authorize a Low Power FM ("LPFM") Service on both the commercial and noncommercial portions of the FM broadcast spectrum. We feel that the LPFM service that we are proposing herein is a distinct and separate service from the microradio service proposed in RM-9208.

I. Background

- 1 As a result of the Telecommunications Reform Act of 1996, ownership of existing classes of AM and FM broadcast stations has been increasingly concentrated in a limited number of hands, with a resultant loss in the diversity of ownership, including a loss in the number of minority owners. Authorization of LPFM with strict ownership limits and limited operating power would provide a mechanism by which to accommodate ownership diversity without impacting the financial integrity of existing broadcast stations.
- 2 Furthermore, the escalating value of existing classes of broadcast stations has increasingly resulted in outlying stations shifting their focus toward nearby metropolitan areas, often at the expense of the communities these stations were originally intended to serve. Authorization of LPFM could return local broadcast service to many of these communities, furthering the goal of fair and equitable distribution of service outlined in Section 307(b) of the Communications Act.
- 3 The petitioner believes that a properly regulated LPFM service could address these concerns while limiting the potential for interference to existing broadcast services. The petitioner also believes that offering such a service will provide a mechanism for controlling the spread of unlicensed radio stations, which are inherently unregulated. The outline for such a service is proposed as follows:

II. Technical Rules for LPFM Service

- 4 The petitioner advocates that LPFM stations be allocated on a first-come first serve "demand" basis (i.e., no requirement to petition to amend the FM Table of Allotments prior to filing an application for a construction permit).

5 LPFM stations should be permitted to operate with a maximum ERP of 250 watts at 100 meters maximum HAAT, or any equivalent combination of ERP and antenna HAAT. Minimum ERP should be 5.0 watts, with no minimum antenna HAAT. These power levels will provide coverage areas comparable to those currently achieved by FM translators and are intended to allow LPFM stations to fill a variety of niches (such as serving small towns, portions of a larger urban area, or even a neighborhood within a larger city) without competing directly against full powered FM stations.

6 Spacing requirements for LPFM stations shall be as specified in 73.215 for shortspaced class A , with the following exceptions:

a) Minimum spacing requirements of the table in paragraph 73.215(e) shall not apply, since these requirements are based on the minimum allowable ERP of 100 watts for class A stations, which would not be applicable for LPFM.

b) LPFM stations operating with less than 50 watts ERP at 100 meters HAAT, or any equivalent combination of ERP and antenna HAAT, shall not be required to meet second or third adjacent channel spacing requirements. We feel that this exception is warranted to insure that LPFM stations are allowed to operate in larger urban areas, especially in view of the fact that the FCC has previously determined that second and third adjacent channel short spacing poses a "small risk of interference" when permitted for grandfathered short-spaced FM stations (see paragraph 29 of Report & Order on "Grandfathered Short-Spaced FM stations" adapted August 8, 1997, MM Docket No. 96-120, RM-7651) operating at much higher power levels than proposed for the LPFM service.

c) Otherwise prohibited contour overlaps will be allowed where it can be demonstrated by the applicant that no actual interference will occur due to intervening terrain, the overlap occurring over a body of water, or such other factors as may be applicable.

d) Prohibited contour overlap would also be allowed where an agreement has been reached between the LPFM and the station(s) affected agreeing to the overlap, if the FCC determines that allowing the overlap is in the public interest.

e) LPFM stations operating in the noncommercial band should be subject to the prohibited contour overlap requirements of the non-commercial rules, 73.509(a), modified by subsections b, c, and d of this paragraph.

7 A proposed LPFM station and allotment would be considered acceptable if it complies with the spacing requirements specified above based on the proposed station's ERP and antenna HAAT. The use of directional antennas and power levels below the LPFM class maximum shall be acceptable to meet these requirements.

8 The petitioner proposes that LPFM stations be allowed to operate as either commercial or non-commercial stations, with commercial operation limited to channels 221 through 300 and non-commercial operation allowed on any open FM channel. No preference is proposed for non-commercial stations operating outside the reserved band (channels 201 through 220).

III. Proposed Ownership Restrictions

9 To insure that LPFM remain a service geared toward providing local community service and increasing the diversity of ownership voices, this petition proposes that ownership of LPFM stations be limited to one per entity, although ownership of LPFM stations in common with other broadcast stations might be permitted under some circumstances (subject to the restrictions proposed in paragraphs 10 and 12 of this document).

10 The petitioner further proposes that applicants, permittees, and owners of LPFM stations be required to meet the Small Business Administration definition of a small business for radio stations, modified to impose \$1,000,000 limit (baselined in the current year of 1998 and adjusted for inflation on an annual basis) on gross revenues from all broadcast related activities including existing AM and FM stations, LPTV, cable television, and the LPFM station. This limit is proposed for both commercial and noncommercial LPFM stations. The petitioner feels that the only appropriate exception to this rule should be if the preponderance of this revenue (90% or greater) comes from the LPFM station. In the event that the owner of a LPFM station ceases to meet this rule, a reasonable period (perhaps one year) should be allowed to either divest the LPFM station or make whatever changes are required to return to conformance for the ownership rules for a LPFM station.

11 The petitioner also proposes that the owner of a LPFM station or proposed LPFM station be required to maintain primary residence within 80 kilometers of the transmitter site of the proposed station (and to have lived in that location for a reasonable period of time prior to the application, such as one year minimum). If the owner is a partnership or corporation, we propose the local ownership rule apply to all cognizable owners, members of the board, and shareholders of record. In the event that the owner(s) of a LPFM station moves to a primary residence outside this 80 kilometer zone, a reasonable period (perhaps one year) should be allowed for the owner to divest the station.

12 The above proposed restrictions (paragraphs 9, 10, and 11) should limit the number of applications received by the FCC, reducing the likelihood of this service getting bogged down by an excessive number of applications, as happened in the early days of the LPTV service. Hopefully, this will allow for speedier implementation of the new LPFM service for the public.

13 The petitioner believes that it is important to discourage speculation and trafficking in LPFM construction permits. To avoid trafficking, this petition proposes that the sale or transfer of LPFM construction permits be prohibited.

14 However, the petitioner proposes that the sale of on-air LPFM stations be allowed, provided that the buyer meets all the requirements for owning such a station. To restrict speculation, the petitioner suggests that a rule similar to the previous anti-trafficking regulations (which prohibited the sale of a broadcast station at a profit if it had been operating under current ownership for less than three years) be imposed on LPFM transactions. Allowing sales will promote continuity of service in the event that the LPFM operator is no longer able (or chooses not) to continue with ownership of the station for any reason. The anti-trafficking guidelines would discourage station speculation and promote responsible operation of LPFM stations.

15 The petitioner proposes that to further insure that LPFM stations be locally oriented, they be prohibited from simulcasting or rebroadcasting the signal of another broadcast station of any service, including other LPFM stations, except in case of shared urgency, such as impending severe weather or other urgent, non-entertainment programming. Furthermore, it is proposed that ownership of LPFM stations be prohibited in common with any other broadcast station(s) whose protected contour would overlap the protected contour of the LPFM station.

IV. Rules for Granting LPFM Construction Permits

16 As previously indicated in this petition, the petitioner desires that LPFM stations be allocated on a "first come, first serve" basis without a requiring a prior petition to amend the FM Table of Allotments. Implementing such a "demand" allocation scheme would result in applicants being able to provide speedy implementation of new local services to their communities. It would also provide a simple and relatively inexpensive application system for applicants, many of whom may have limited financial means. We feel that this system would be preferable to the use of a lottery for granting LPFM applications, as was used in the past for LPTV grants.

17 In the event that two or more mutually exclusive applications are received on the same day, the petitioner proposes that the permit be granted to the application received earliest in the day, if that application is otherwise valid.

V. Primary Status for LPFM Service

18 Unlike FM translators, LPFM stations will have a significant investment in equipment to originate local programming, which means that the secondary status currently conferred upon translators would be inappropriate for the proposed new service. The CRC believes that LPFM stations should be accorded primary status similar (but not identical) to that of existing full powered commercial and non-commercial FM stations. Specifically, this petition proposes that a LPFM station...

(a) Could be required to change frequency and/or modify facilities to accommodate a rule making request for a full powered station, but could not be required to leave the air to accommodate such a rulemaking.

(b) LPFM stations would be compensated by the proponents of such a rulemaking for all reasonable costs associated with the frequency and/or facilities change, including any engineering or other studies needed to implement such a change.

(c) Such changes would only be ordered if the changes to the facilities of the LPFM station would not result in a loss of coverage to more than 5% of the population within the LPFM station's previous protected contour.

(d) LPFM applications would not be granted in situations where such grant would require existing LPFM or full powered stations to change frequency, alter facilities, or incur interference from the proposed LPFM allocation.

(e) LPFM stations and applications will take precedence over existing or proposed translator stations. An LPFM station may displace an existing translator without compensation to the translator owner/operator, just as full powered stations are currently allowed to do. The petitioner believes that in most instances the public benefit of the new local service from a LPFM station would outweigh the loss of service from a translator importing a non-local signal.

19 The petitioner believes that one step upgrades from LPFM status to any full powered FM station class (A, B, B1, C, C1, C2, or C3) should not be permitted. Since the proposed rules for LPFM stations are significantly different from those currently in place for full powered stations, allowing one step upgrades between the two services could have the effect of encouraging some applicants to use LPFM stations as a back door to obtaining a full powered station.

VI. Public Service and Local Origination Requirements

20 Since spectrum auctions are not being proposed for LPFM applicants, the petitioner feels that it is reasonable that these stations be required to meet some public service requirements in return for their licenses. This petition proposes a requirement that a minimum of 10 hours of each LPFM station's

weekly broadcast time between 6:00 AM and Midnight Monday through Friday and 9:00 AM and Midnight on Saturday and Sunday be dedicated to locally originated non-entertainment public service programming. Stations should, however, be granted the flexibility to meet this requirement through either long form or short form programming, or a combination of both.

21 One of the major goals of the proposed service is to provide locally oriented broadcast services. The petitioner therefore proposes that LPFM stations be required to operate a main studio within the protected contour of the station and to originate a minimum of 90% of their broadcast day between 6 AM and Midnight from this studio or other locations within the protected contour of the station. However, the petitioner believes that stations should be given flexibility in meeting this requirement with live, delayed, or automated programming, as long as this programming is locally originated. This flexibility would give the stations the ability to best serve the public interest of their local communities with locally responsive programming while operating within the strict financial constraints that would likely exist at many of these stations. However, LPFM stations should not be allowed to circumvent their local origination requirements by airing long form programming which is originated, controlled, or produced elsewhere, but played back at a local studio. This includes programming delivered via satellite, recorded media, air, wire or cable, and/or the use of playlists, music logs or rotations provided by an outside entity or entities. This does not apply to the use of locally selected, pre-recorded musical selections. Exceptions to the local origination requirement should include the airing of urgent news and/or emergency programming including weather alerts, in any instance where public health or safety is at risk. Commercial LPFM stations should be restricted from airing advertising during these types of broadcasts. These restrictions are not designed to limit programming options. They are included as a mechanism to help ensure that the proposed service remains locally focused and is not converted into a non-local service by virtue of having programming supplied by outside entities. Additionally, this section does not attempt to limit the type of programming aired on an LPFM station, merely the source of said programming. There is already precedent for regulating programming source in the Commission's FM translator regulations, which prohibit any local origination beyond a thirty second announcement once per hour. Travelers Advisory Radio (TIS) is also restricted in the type and source of its programming. The petitioner is concerned that without strict ownership and program origination restrictions, the new service may be usurped by non-local entities, thus defeating its intended purpose as a vehicle to provide local broadcast service.

VII. Fee Structure

22 The petitioner believes that it is important that a LPFM service be kept affordable to applicants, meaning that fees associated with the application process should be kept to a minimum. This petition proposes that the current fee structure for FM Translator stations provides a reasonable basis for setting the fees for the proposed LPFM service.

VIII. Conclusion

23 For the above reasons, the petitioner requests that Section 73, Subpart B, be amended as required to authorize a LPFM Service as proposed within this petition.

Respectfully submitted,

The Community Radio Coalition

Exhibit "A"

- * Thomas Desmond
- * Jeremy Lansman
- * William Pfeiffer
- * Kent Peterson
- * William Spry

Separate Supporting Statement by
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The Petitioners:

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This Petition for
Rulemaking for a Low Power FM
Broadcast Service is but one means
that could be used to increase the
scope of economic and cultural and
ethnic diversity represented on
the American FM broadcast band. My
support of this petition should
not be construed to indicate lack
of support or interest of other
ideas, many of which are not
mutually exclusive with the
concepts expressed herein.

I urge the Commission to
review all Petitions for
Rulemaking regarding LPFM and to
adopt a variety of licensing ideas
that might, we can hope, improve
citizen access to broadcast
spectrum, as well as increase
participation by small business,
women and minorities in
broadcasting.

Jeremy Lansman
President
Fireweed Communications Corporation